

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CHARLES RAY POLK	§	
v.	§	CIVIL ACTION NO. 6:05cv148
		(Crim. No. 6:95cr38)
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant Charles Ray Polk, proceeding *pro se*, filed this application for the writ of habeas corpus challenging the legality of his conviction. The Court construed the petition as a motion to vacate or correct sentence and ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

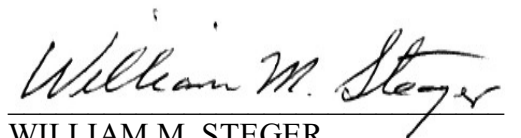
On May 10, 2005, the Magistrate Judge issued a Report recommending that the motion be denied. Polk filed objections to the Report, stating that he had filed a motion to withdraw his petition and so it should be dismissed based upon his motion to withdraw.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the Report of the Magistrate Judge, the Petitioner's objections thereto, and all documents and records in the case. Upon such *de novo* review, the Court has concluded that the petition should be dismissed without prejudice on the motion of the Petitioner. It is accordingly

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice on the motion of the Petitioner. It is further

ORDERED that any and all motions which may be pending in this action are hereby
DENIED.

SIGNED this 23rd day of May, 2005.

A handwritten signature in cursive script, reading "William M. Steger". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE